COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No.03 of 2003

1. The Commissioner of Income Tax, Dehradun
2. Income Tax Officer, Spl. Ward, Dehradun

...Appellants

Versus

Atwood Oceanics International,
S.A. as agent of Mr.R. Wylie,
C/o Nangia & Co., C.A.s,
D-11, Greater Kailash Enclave- 1,
New Delhi-48

...Respondent

Dated: March 4, 2006

Mr. Pitamber Maulekhi, Id. Standing counsel for the appellants.

Coram: Hon. P.C. Verma, J.
Hon. B.S. Verma, J.

This is an appeal against the judgment and order- dated 31.10.2001, passed by the Income Tax Appellate Tribunal, (Delhi Bench 'A' New Delhi) in ITA No.5881 (Del) of 1990. The dispute relates to the Assessment Year 1983-84.

2. The substantial questions of law raised in the appeal are as follows:

> "*Whether the learned Income Tax Appellate Tribunal was legally correct to treat the continental shelf to the Exclusive Economic Zone as not forming part of India prior to 01.04.1983 for the purposes of Income Tax Act, 1961?*
>
> *"Whether the Ld. Appellate Tribunal was justified in holding that the salary income earned by the respondent employee for services rendered prior to 01.04.1983 in a rig located in the offshore areas outside the territorial waters of India, was not chargeable to tax under the Income Tax Act, 1961 of the assessment 1983-84?"*

3. The aforementioned questions considered by a Division Bench of this Court in the case of *Commissioner of Income Tax and another Vs. Atwood Oceanics International S.A.*, which was reported in Income Tax Reports, Vol.264 {2003} Page 761.

4. For the reasons given in the above judgment, we answer both the questions in the affirmative that is in favour of the assessee and against the Department.

5. The appeal is dismissed accordingly. No order as to costs.

(B.S. Verma, J.) **(P.C. Verma, J.)**

Rajeev Dang